



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 4

CONFISCATION: NORTHERN IRELAND

Appeals

181 Appeal by prosecutor^{F1}...

- (1) If the Crown Court makes a confiscation order the prosecutor^{F2}... may appeal to the Court of Appeal in respect of the order.
- (2) If the Crown Court decides not to make a confiscation order the prosecutor^{F3}... may appeal to the Court of Appeal against the decision.
- (3) Subsections (1) and (2) do not apply to an order or decision made by virtue of section 169, 170, 177 or 178.

Textual Amendments

- F1** Words in s. 181 heading repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 50(2), [Sch. 14](#); S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F2** Words in s. 181(1) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 50(3), [Sch. 14](#); S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F3** Words in s. 181(2) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 50(4), [Sch. 14](#); S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

Modifications etc. (not altering text)

- C1** Pt. 4 applied by S.I. 1989/1341 (N.I. 12), art. 59(8B) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 19\(3\)](#); S.I. 2003/333, art. 2, Sch.)
- C2** Pt. 4 applied by S.I. 1989/1341 (N.I. 12), arts. 57(5B), 59(8B) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), [Supreme Court s. 458\(1\)](#), [Sch. 11 para. 19\(2\)\(3\)](#); S.I. 2003/333, art. 2, Sch.)

Status: Point in time view as at 01/04/2008.

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Commencement Information

II S. 181 in force at 24.3.2003 by [S.I. 2003/333](#), [art. 2](#), [Sch.](#)

182 Court's powers on appeal

- (1) On an appeal under section 181(1) the Court of Appeal may confirm, quash or vary the confiscation order.
- (2) On an appeal under section 181(2) the Court of Appeal may confirm the decision, or if it believes the decision was wrong it may—
 - (a) itself proceed under section 156 (ignoring subsections (1) to (3)), or
 - (b) direct the Crown Court to proceed afresh under section 156.
- (3) In proceeding afresh in pursuance of this section the Crown Court must comply with any directions the Court of Appeal may make.
- (4) If a court makes or varies a confiscation order under this section or in pursuance of a direction under this section it must—
 - (a) have regard to any fine imposed on the defendant in respect of the offence (or any of the offences) concerned;
 - (b) have regard to any order which falls within section 163(3) and has been made against him in respect of the offence (or any of the offences) concerned, unless the order has already been taken into account by a court in deciding what is the free property held by the defendant for the purposes of section 159.
- (5) If the Court of Appeal proceeds under section 156 or the Crown Court proceeds afresh under that section in pursuance of a direction under this section subsections (6) to (10) apply.
- (6) If a court has already sentenced the defendant for the offence (or any of the offences) concerned, section 156 has effect as if his particular criminal conduct included conduct which constitutes offences which the court has taken into consideration in deciding his sentence for the offence or offences concerned.
- (7) If an order has been made against the defendant in respect of the offence (or any of the offences) concerned under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)) (compensation orders)—
 - (a) the court must have regard to it, and
 - (b) section 163(5) and (6) above do not apply.
- (8) Section 158(2) does not apply, and the rules applying instead are that the court must—
 - (a) take account of conduct occurring before the relevant date;
 - (b) take account of property obtained before that date;
 - (c) take account of property obtained on or after that date if it was obtained as a result of or in connection with conduct occurring before that date.
- (9) In section 160—
 - (a) the first and second assumptions do not apply with regard to property first held by the defendant on or after the relevant date;
 - (b) the third assumption does not apply with regard to expenditure incurred by him on or after that date;

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- (c) the fourth assumption does not apply with regard to property obtained (or assumed to have been obtained) by him on or after that date.
- (10) Section 176 applies as it applies in the circumstances mentioned in subsection (1) of that section.
- (11) The relevant date is the date on which the Crown Court decided not to make a confiscation order.

Commencement Information

I2 S. 182 in force at 24.3.2003 by [S.I. 2003/333](#), [art. 2](#), [Sch.](#)

183 Appeal to House of Lords

- (1) An appeal lies to the House of Lords from a decision of the Court of Appeal on an appeal under section 181.
- (2) An appeal under this section lies at the instance of—
 - (a) the defendant or the prosecutor ^{F4}...;
 - ^{F5}(b)
- (3) On an appeal from a decision of the Court of Appeal to confirm, vary or make a confiscation order the House of Lords may confirm, quash or vary the order.
- (4) On an appeal from a decision of the Court of Appeal to confirm the decision of the Crown Court not to make a confiscation order or from a decision of the Court of Appeal to quash a confiscation order the House of Lords may—
 - (a) confirm the decision, or
 - (b) direct the Crown Court to proceed afresh under section 156 if it believes the decision was wrong.
- (5) In proceeding afresh in pursuance of this section the Crown Court must comply with any directions the House of Lords may make.
- (6) If a court varies a confiscation order under this section or makes a confiscation order in pursuance of a direction under this section it must—
 - (a) have regard to any fine imposed on the defendant in respect of the offence (or any of the offences) concerned;
 - (b) have regard to any order which falls within section 163(3) and has been made against him in respect of the offence (or any of the offences) concerned, unless the order has already been taken into account by a court in deciding what is the free property held by the defendant for the purposes of section 159.
- (7) If the Crown Court proceeds afresh under section 156 in pursuance of a direction under this section subsections (8) to (12) apply.
- (8) If a court has already sentenced the defendant for the offence (or any of the offences) concerned, section 156 has effect as if his particular criminal conduct included conduct which constitutes offences which the court has taken into consideration in deciding his sentence for the offence or offences concerned.

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- (9) If an order has been made against the defendant in respect of the offence (or any of the offences) concerned under Article 14 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)) (compensation orders)—
- (a) the Crown Court must have regard to it, and
 - (b) section 163(5) and (6) above do not apply.
- (10) Section 158(2) does not apply, and the rules applying instead are that the Crown Court must—
- (a) take account of conduct occurring before the relevant date;
 - (b) take account of property obtained before that date;
 - (c) take account of property obtained on or after that date if it was obtained as a result of or in connection with conduct occurring before that date.
- (11) In section 160—
- (a) the first and second assumptions do not apply with regard to property first held by the defendant on or after the relevant date;
 - (b) the third assumption does not apply with regard to expenditure incurred by him on or after that date;
 - (c) the fourth assumption does not apply with regard to property obtained (or assumed to have been obtained) by him on or after that date.
- (12) Section 176 applies as it applies in the circumstances mentioned in subsection (1) of that section.
- (13) The relevant date is—
- (a) in a case where the Crown Court made a confiscation order which was quashed by the Court of Appeal, the date on which the Crown Court made the order;
 - (b) in any other case, the date on which the Crown Court decided not to make a confiscation order.

Textual Amendments

- F4** Words in s. 183(2)(a) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 51(a), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)
- F5** S. 183(2)(b) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 51(b), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)

Commencement Information

- I3** S. 183 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

Status:

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